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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re	:	Chapter 11
	:	
Old Carco LLC	:	Case No. 09-50002 (AJG)
(f/k/a Chrysler LLC), <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
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**MOTION OF OLD CARCO LIQUIDATION TRUST FOR AN  
ORDER APPROVING SETTLEMENT AGREEMENT BETWEEN  
OLD CARCO LIQUIDATION TRUST AND THE UNITED STATES, ON  
BEHALF OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

TO THE HONORABLE ARTHUR J. GONZALEZ  
CHIEF UNITED STATES BANKRUPTCY JUDGE:

Old Carco Liquidation Trust (the "Liquidation Trust"), as successor in interest to  
the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively,  
the "Debtors"), respectfully represents as follows:

## **Background**

1. On April 30, 2009 (the "Petition Date"), Old Carco LLC f/k/a Chrysler LLC ("Old Carco") and 24 of its affiliated Debtors commenced their bankruptcy cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). On May 19, 2009, Debtor Alpha Holding LP commenced its bankruptcy case by filing a voluntary petition under chapter 11 of the Bankruptcy Code. By orders of the Court (Docket Nos. 97 and 2188), the Debtors' chapter 11 cases have been consolidated for procedural purposes and are being administered jointly.

2. On April 23, 2010, this Court entered the Order Confirming the Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession, as Modified (Docket No. 6875) (the "Confirmation Order"). Attached to the Confirmation Order as Annex I is the confirmed Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession, as Modified, which was further modified by the Order, Pursuant to Section 1127(b) of the Bankruptcy Code, Approving Technical Modification of Confirmed Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession, as Modified, dated April 28, 2010 (Docket No. 6923) (collectively with all exhibits thereto, the "Plan").<sup>1</sup>

3. The Plan became effective in accordance with its terms on April 30, 2010 (the "Effective Date"). See Notice of (A) Entry of Order Confirming Second Amended Joint Plan of Liquidation of Debtors and Debtors in Possession, as Modified and (B) Occurrence of Effective Date (Docket No. 6980). On the Effective Date, the Liquidation Trust was established pursuant to and in accordance with the Plan for the purpose of, among other things, liquidating the Debtors' assets that were transferred to the Liquidation Trust, resolving all Disputed Claims,

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning given to them in the Plan.

pursuing any Recovery Actions (including the Daimler Litigation), making all distributions to holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan.

### **Jurisdiction**

4. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334 and Article VIII of the Plan. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Requested Relief**

5. The Liquidation Trust hereby seeks the entry of an order, pursuant to section 105 of the Bankruptcy Code and Sections IV.O.4 and VIII.A.22 of the Plan, approving its entry into and performance under a settlement agreement (the "Settlement Agreement"), dated June 8, 2010, by and between the Liquidation Trust and the United States, on behalf of the United States Environmental Protection Agency (the "EPA").<sup>2</sup> The Settlement Agreement resolves a dispute between the Liquidation Trust, as successor in interest to Old Carco, and the EPA regarding Old Carco's alleged environmental liabilities arising under CERCLA at the Behr Dayton Thermal Systems VOC Plume Superfund Site (the "Liquidated Site").

### **Facts Relevant to This Motion**

6. Prior to the Petition Date, Old Carco owned and operated the Liquidated Site from 1937 until 2002, at which time Old Carco sold the Liquidated Site to Behr Dayton Thermal Products LLC. In December 2006, Old Carco and the EPA entered into an administrative order on consent (the "Behr AOC"). In its proof of claim, filed on October 27, 2009 and assigned claim number 28677 (the "Proof of Claim"), the United States, on behalf of

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<sup>2</sup> A copy of the Settlement Agreement is attached hereto as Exhibit A and incorporated herein by reference.

the EPA, alleges that the Behr AOC required Old Carco to conduct a removal action pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601-9675 ("CERCLA") to address certain health threats posed by trichloroethene vapor intrusion into homes and other structures. The Proof of Claim further asserts that Old Carco is liable for various injunctive and regulatory obligations, including: (a) certain additional obligations under the Behr AOC; (b) past and future response costs incurred by the EPA at the Liquidated Site;<sup>3</sup> (c) civil penalties arising from alleged violations of the Behr AOC;<sup>4</sup> and (d) civil penalties arising from alleged violations of an information request issued under Section 104(a) of CERCLA.<sup>5</sup> The United States contends that the Liquidation Trust is liable to the same extent that Old Carco was liable for the obligations and claims set forth in the Proof of Claim. The Liquidation Trust disagrees with the United States' contentions in its Proof of Claim and, but for the Settlement Agreement, would dispute, in whole or in part, the Proof of Claim, including the United States' contentions regarding injunctive obligations.

7. Section IV.O of the Plan establishes an Environmental Reserve and requires that the Liquidation Trust maintain a separate sub-account in the Environmental Reserve with respect to the Liquidated Site, i.e., the EPA Reserve. More specifically, the EPA Reserve is funded in the initial amount of \$500,000 and is available solely to fund any settlement with the EPA with respect to any administrative expenses and obligations of the Liquidation Trust relating to the Liquidated Site. See Plan, Sections X.A.93E; IV.O.4.a. The Plan provides that any payment to the EPA on account of a settlement relating to the Liquidated Site will be paid

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<sup>3</sup> The Proof of Claim asserts that the United States has incurred approximately \$3.6 million in past response costs at the Liquidated Site and that it will continue to incur additional costs for a number of years.

<sup>4</sup> The Proof of Claim asserts that Old Carco is liable for a statutory maximum penalty of \$27.07 million for violations of the Behr AOC.

<sup>5</sup> The Proof of Claim asserts that Old Carco is liable for a statutory maximum penalty of \$9.47 million on account of its failure to adequately respond to the information request issued under CERCLA.

solely from the EPA Reserve, *provided that* any Excess Reserve Amount may be used to fund up to an additional \$1,500,000 into the EPA Reserve, such that the total amount of the EPA Reserve could be as much as \$2,000,000. Plan, Sections IV.O.4.a; IV.O.2.f and IV.O.2.g. The Plan also provides that, except to the extent otherwise provided in a settlement with the EPA, the EPA may continue to pursue its General Unsecured Claims in the Chapter 11 Cases, including General Unsecured Claims with respect to the Liquidated Site, and the Liquidation Trust may object to any such Claims on any and all available grounds. Plan, Section IV.O.4.d. Finally, the Plan provides that, if the EPA and the Liquidation Trust do not enter into a settlement agreement with respect to administrative expenses and obligations relating to the Liquidated Site, the funds in the EPA Reserve will be promptly paid to the Government DIP Lenders on a Pro Rata basis. Plan, Section IV.O.4.c. The provisions of Sections IV.O and X.A of the Plan relating to the Liquidated Site were approved by the Court in all respects. See Confirmation Order at ¶ 56.

8. Section IV.O.4.b of the Plan required the Liquidation Trust and the EPA to negotiate in good faith to pursue a settlement agreement relating to the Liquidated Site. In accordance with this requirement, the parties, in good faith, have negotiated and executed the Settlement Agreement. Consistent with Section VIII.A.22 of the Plan, the Settlement Agreement provides that its effectiveness is subject to the approval of the Court. See Settlement Agreement at ¶ 22.

### **The Settlement Agreement**

9. Pursuant to the Settlement Agreement and consistent with the Plan and Confirmation Order, the Liquidation Trust and the United States have agreed to settle the Proof

of Claim with respect to the Liquidated Site. The principal terms of the Settlement Agreement are as follows:<sup>6</sup>

- The EPA shall receive a cash payment in the amount of \$500,000 from the EPA Reserve on the Agreement Effective Date.<sup>7</sup> In the event that the sale or transfer of an Owned Property results in an Excess Reserve Amount, the EPA shall receive an additional cash payment(s) from the EPA Reserve in the maximum aggregate additional amount of \$1,500,000 on account of the Liquidated Site (i.e., for a potential total of \$2,000,000 in cash payments from the EPA Reserve). Settlement Agreement at ¶¶ 4(a), (b).
- The EPA shall have an Allowed General Unsecured Claim for any response costs incurred by the EPA in connection with the Liquidated Site in the amount of \$26,000,000, classified in Class 3A under the Plan, which shall receive the same treatment under the Plan as other Allowed General Unsecured Claims in such class. Settlement Agreement at ¶¶ 4(c), 7(a).
- The EPA shall have an Allowed General Unsecured Claim for penalties in the amount of \$5,000,000, classified in Class 3A under the Plan, which claim for penalties shall be subordinated under the Plan to other Allowed General Unsecured Claims. Settlement Agreement at ¶¶ 4(d), 7(b).
- The United States shall receive no distributions from the Liquidation Trust with respect to the liabilities and obligations asserted in the Proof of Claim with respect to the Liquidated Site other than as set forth in the Settlement Agreement. Settlement Agreement at ¶ 5.
- If at any time after the Agreement Effective Date, the Liquidation Trust recovers insurance proceeds on account of the Liquidated Site in excess of Old Carco's costs of pursuing such insurance proceeds, the Liquidation Trust may retain 20% of such excess insurance proceeds and shall pay 80% of such excess insurance proceeds to the United States, with any such payment to the United States being in addition to the payments required to be made under Paragraph 4 of the Settlement Agreement. Under no circumstances shall the payments to the United States from the excess insurance proceeds, when combined with the consideration received for the Liquidated Site by the EPA on account of its Allowed General

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<sup>6</sup> The summary of the terms of the Settlement Agreement set forth in the text of this Motion is provided for the convenience of the Court and parties in interest and does not modify the terms of the Settlement Agreement in any manner. To the extent the terms of this Motion and the terms of the Settlement Agreement are inconsistent, the terms of the Settlement Agreement shall govern.

<sup>7</sup> Capitalized terms used in paragraph 9 of this Motion and not otherwise defined herein or in the Plan have the meanings given to them in the Settlement Agreement.

Unsecured Claim for the Liquidated Site under Paragraph 4(c) of the Settlement Agreement, exceed the amount of the Allowed General Unsecured Claim for the Liquidated Site under Paragraph 4(c) of the Settlement Agreement. Settlement Agreement at ¶ 6.

- Except as otherwise provided in the Settlement Agreement, the EPA covenants not to file a civil action or take any administrative or other civil action against the Liquidation Trust and, pursuant to Sections 106 or 107 of CERCLA and Section 7003 of the Resource Conservation and Recovery Act (the "RCRA"), with respect to the Liquidated Site.<sup>8</sup> Such covenant not to sue shall also apply to the Liquidation Trust's or Old Carco's successors, assigns, officers, directors, employees and trustees (including the Liquidation Trustee), but only to the extent that their alleged liability is based solely on their status, and in their capacity, as such. Settlement Agreement at ¶¶ 13-14.
- The Liquidation Trust covenants not to sue and agrees not to assert or pursue any claims or causes of action against the United States with respect to the Liquidated Site, including, but not limited to, any direct or indirect claim for reimbursement from the Superfund, any claim against the United States related to the Liquidated Site or any claims arising out of response activities at the Liquidated Site. Settlement Agreement at ¶ 18.
- Notwithstanding the foregoing, the covenants not to sue contained in the Settlement Agreement shall neither apply to nor affect any action based on (a) failure to meet a requirement of the Settlement Agreement, (b) criminal liability or (c) conduct of the Liquidation Trust at or with respect to the Liquidated Site occurring after the date of lodging the Settlement Agreement that would give rise to liability under CERCLA. Settlement Agreement at ¶ 16.

10. Pursuant to the Code of Federal Regulations and the Settlement

Agreement, the Settlement Agreement shall be lodged with the Court and shall thereafter be subject to public comment for a period of 30 days following the publication of a notice of the Settlement Agreement in the *Federal Register*. See Settlement Agreement at ¶ 23. After the

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Nothing in the Settlement Agreement shall be deemed to limit the authority of the United States to take response action under Section 104 of CERCLA or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States pursuant to such authority. Additionally, nothing in the Settlement Agreement shall be deemed to limit the information-gathering authority of the United States under Sections 104 and 122 of CERCLA, or any other applicable federal or state law or regulation, or to excuse the Liquidation Trust from any disclosure or notification requirements imposed by CERCLA, RCRA or any other applicable federal or state law or regulation. Settlement Agreement at ¶ 17.

conclusion of the public comment period, the United States will file with the Court any comments received, as well as the United States' responses to such comments, and at that time, if appropriate, the United States will request approval of the Settlement Agreement. Id. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Settlement Agreement disclose facts or circumstances that indicate that the Settlement Agreement is not in the public interest. Id.

11. If for any reason the Settlement Agreement is withdrawn by the United States as provided in Paragraph 23 of the Settlement Agreement or the Settlement Agreement is not approved: (a) the Settlement Agreement shall be null and void and the parties shall not be bound thereunder or under any documents executed in connection therewith; and (b) the parties shall have no liability to one another arising out of or in connection with the Settlement Agreement or under any documents executed in connection therewith. Id. at ¶ 24.

### **Argument**

12. By this Motion, the Liquidation Trust seeks the entry of an order approving the terms and conditions of, and authorizing the Liquidation Trust to fulfill its obligations under, the Settlement Agreement pursuant to section 105 of the Bankruptcy Code and Section VIII.A.22 of the Plan.

13. The Court has authority, pursuant to section 105 of the Bankruptcy Code and Section VIII of the Plan, to issue orders, such as the one requested herein, in aid of the implementation of the Plan. See In re Parkway Hosp., Inc., No. 05-14876, 2007 WL 2230916, at \*12 (Bankr. S.D.N.Y. Jul. 31, 2007) (court retained jurisdiction, pursuant to section 105(a) of the Bankruptcy Code, to "make such orders as are necessary or appropriate to carry out the provisions of the [debtors' plan]."); In re Amsterdam Ave. Dev. Assocs., 103 B.R. 454, 460 (Bankr. S.D.N.Y. 1989) (stating that "courts can issue, pursuant to section 105(a) of the



[Bankruptcy] Code . . . orders affecting parties in interest to a bankruptcy case and other entities, in order to implement . . . plans") (citing In re Johns-Manville Corp., 68 B.R. 618, 625 (Bankr. S.D.N.Y. 1986)). Moreover, the Court expressly reserved jurisdiction to approve settlements such as the Settlement Agreement pursuant to Section VIII.A.22 of the Plan. See Plan, at Section VIII.A.22 (providing that "the Bankruptcy Court shall retain such jurisdiction . . . as is legally permissible . . . to . . . approve or address . . . environmental settlements and issues (including as described in . . . [Section] IV.O.4). . .").

14. The Liquidation Trust respectfully submits that entry of an order approving its entry into and performance under the Settlement Agreement is appropriate to implement the provisions of the Plan. A review of the relevant facts demonstrates that the Settlement Agreement is consistent with both the Plan and the Confirmation Order. The provisions of the Settlement Agreement were negotiated in good faith (as required by Section IV.O.4.b of the Plan) and represent a fair, equitable and comprehensive resolution of the issues between the parties. Furthermore, the Settlement Agreement is consistent with Paragraph 56 of the Confirmation Order and Section IV.O.4 of the Plan, which address the parties' relative rights with respect to the Liquidated Site and provide the mechanism for the resolution of the Proof of Claim. Finally, the Court's approval of the Settlement Agreement will render the parties' agreement a "judicially-approved settlement" within the meaning of section 113(f)(2) of CERCLA, thereby entitling the Liquidation Trust to protection from contribution actions and claims for "matters addressed" therein. See 42 U.S.C. § 9613(f)(2); Settlement Agreement, at ¶ 19. For the foregoing reasons, the Settlement Agreement should be approved by the Court.

### **Notice**

15. Pursuant to the Administrative Order, Pursuant to Bankruptcy Rule 1015(c), Establishing Case Management and Scheduling Procedures (Docket No. 661) (the "Case Management Order") notice of this Motion has been given to: (a) all parties entitled to service of documents pursuant to Section IX.E of the Plan; (b) the parties on the General Service List (as such term is defined in the Case Management Order); (c) the United States; and (d) the EPA. The Debtors submit that no other or further notice need be provided.

### **No Prior Request**

16. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, the Liquidation Trust respectfully requests that the Court, subject to the terms and conditions set forth herein: (i) enter an order, substantially in the form attached hereto as Exhibit B, approving the Settlement Agreement; and (ii) grant such other and further relief to the Liquidation Trust as the Court may deem proper.

Dated: July 14, 2010  
New York, New York

Respectfully submitted,

s/ Corinne Ball

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ATTORNEYS FOR OLD CARCO  
LIQUIDATION TRUST

**EXHIBIT A**

**[Settlement Agreement]**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

Old Carco LLC,  
(f/k/a Chrysler LLC), *et al.*,

Debtors.

Chapter 11

Case No. 09-50002 (AJG)

(Jointly Administered)

**SETTLEMENT AGREEMENT BETWEEN  
THE OLD CARCO LIQUIDATION TRUST AND THE UNITED STATES**

**I. BACKGROUND**

WHEREAS, Old Carco LLC (f/k/a Chrysler LLC) ("Old Carco") and certain of its affiliates commenced these cases by filing with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on April 30, 2009, which cases have been consolidated for procedural purposes and are being administered jointly as Case No. 09-50002 (AJG) (the "Bankruptcy Cases");

WHEREAS, the United States, on behalf of the United States Environmental Protection Agency (along with any legal successor thereto, "EPA"), contends that Old Carco is liable under the Comprehensive Environmental Response, Compensation, and Liability Act (as now in effect or hereafter amended, "CERCLA"), 42 U.S.C. §§ 9601, et seq., for costs incurred and to be incurred by the United States in response to releases and threats of releases of hazardous substances at or in connection with the Behr Dayton Thermal Systems VOC Plume Superfund Site (the "Liquidated Site"), as well as civil penalties incurred at the Liquidated Site;

WHEREAS, the United States, on behalf of EPA, has filed a proof of claim in the Bankruptcy Cases (Claim No. 28677) (the “Proof of Claim”) against Old Carco, which includes claims regarding, *inter alia*, the Liquidated Site;

WHEREAS, the United States, acting on behalf of EPA, contends that Old Carco was required to conduct a removal action pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, to address the immediate health threats posed by Trichloroethene vapor intrusion into homes and other structures at the Liquidated Site;

WHEREAS, the Proof of Claim filed by the United States also sets forth the United States’ position that Old Carco’s injunctive obligations to comply with work requirements under court orders, environmental statutes, regulations, administrative orders, licenses, and permits were regulatory obligations that Old Carco was required to fulfill, including, but not limited to, the work requirements set forth in an Administrative Settlement Agreement and Order on Consent for Removal Action between Old Carco and EPA, dated December 19, 2006;

WHEREAS, on April 23, 2010, the Bankruptcy Court entered an order (Docket No. 6875) (the “Confirmation Order”) confirming the Second Amended Joint Plan of Liquidation of Debtors and Debtors-in-Possession, as Modified, attached to the Confirmation Order as Annex I (without the exhibits thereto) and as further modified by the Order of the Bankruptcy Court dated April 28, 2010 (Docket No. 6923) (collectively, including all exhibits thereto, and as may be amended, modified or supplemented from time to time, the “Plan” or “Plan of Liquidation”), which Plan became effective on April 30, 2010;

WHEREAS, the Plan of Liquidation provides that, as of the effective date of the Plan, Old Carco was dissolved and ceased to exist as a separate corporate entity;

WHEREAS, the Plan of Liquidation further provides that holders of Allowed Claims against any Debtor shall have recourse solely to the designated assets of the Liquidation Trust for the payment or satisfaction of their Allowed Claims;

WHEREAS, the United States, on behalf of EPA, contends that the Liquidation Trust is liable to the same extent that Old Carco was liable for injunctive obligations and claims set forth in the United States' Proof of Claim;

WHEREAS, the Liquidation Trust disagrees with the United States' contentions in its Proof of Claim, and but for this Settlement Agreement, would dispute, in whole or in part, the United States' Proof of Claim, including the United States' contentions regarding injunctive obligations;

WHEREAS, the Liquidation Trust and the United States, acting on behalf of EPA, wish to resolve their differences with respect to the Liquidated Site and address other issues relating to environmental matters as provided herein;

WHEREAS, the treatment of liabilities provided for herein represents a compromise of the contested positions of the parties that is entered into solely for purposes of this settlement, and the parties reserve their legal arguments as to any issues involved in other matters, including with respect to sites and properties other than the Liquidated Site included in the Proof of Claim;

WHEREAS, in consideration of, and in exchange for, the promises and covenants herein, including, without limitation, the covenants not to sue set forth in Paragraphs 13, 14, and 18, and subject to the provisions of Paragraphs 22 through 25, intending to be legally bound hereby, the Liquidation Trust and the United States on behalf of EPA hereby agree to the terms and provisions of this Settlement Agreement;

WHEREAS, settlement of the matters governed by this Settlement Agreement is in the public interest and is an appropriate means of resolving these matters;

NOW, THEREFORE, without the admission of liability or the adjudication of any issue of fact or law, and upon the consent and agreement of the parties to this Settlement Agreement by their attorneys and authorized officials, it is hereby agreed as follows:

## **II. DEFINITIONS**

1. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or its regulations or in the Bankruptcy Code shall have the meaning assigned to them in CERCLA, its regulations, or the Bankruptcy Code. Whenever terms listed below are used in this Settlement Agreement, the following definitions shall apply:

a. “Agreement Effective Date” means the date on which this Settlement Agreement is approved by the Bankruptcy Court.

b. “Allowed Claim” shall have the meaning set forth in the Plan of Liquidation;

c. “Allowed General Unsecured Claim” shall have the meaning set forth in the Plan of Liquidation.

d. “Bankruptcy Cases” has the meaning set forth in the recitals.

e. “Bankruptcy Code” has the meaning set forth in the recitals.

f. “Bankruptcy Court” has the meaning set forth in the recitals.

g. “CERCLA” has the meaning set forth in the recitals.

h. “Claims” has the meaning provided in Section 101(5) of the Bankruptcy Code.

i. “Confirmation Order” has the meaning set forth in the recitals.

j. “EPA” has the meaning set forth in the recitals.

k. “EPA Reserve” shall have the meaning set forth in the Plan of Liquidation.

l. “Excess Reserve Amount” shall have the meaning set forth in the Plan of Liquidation.



m. “Liquidated Site” means the Behr Dayton Thermal Systems VOC Plume Superfund Site (which is referred to in the Plan of Liquidation as the “Behr Dayton Site”). The “Liquidated Site” shall be construed to include all areas of the site as defined by EPA for purposes of the NPL, including any later expansion of such site as may be determined by EPA, and any natural resources affected or potentially affected by the release or threatened release of hazardous substances at or from such sites.

n. “Liquidation Trust” and “Liquidation Trustee” shall have the meanings set forth in the Plan of Liquidation.

o. “NPL” means the National Priorities List, 40 C.F.R. Part 300.

p. “Old Carco” has the meaning set forth in the recitals.

q. “Owned Property” shall have the meaning set forth in the Plan.

r. “Plan of Liquidation” or “Plan” has the meaning set forth in the recitals.

s. “Proof of Claim” has the meaning set forth in the recitals.

t. “RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., as now in effect or hereafter amended.

u. “Superfund” means the Hazardous Substances Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507.

v. “United States” means the United States of America and all of its agencies, departments, and instrumentalities, including EPA.

### **III. JURISDICTION**

2. The Bankruptcy Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§ 157, 1331, and 1334, and 42 U.S.C. §§ 9607 and 9613(b), as well as Article VIII of the Plan and the Confirmation Order.

#### **IV. PARTIES BOUND; SUCCESSION AND ASSIGNMENT**

3. This Settlement Agreement applies to, is binding upon, and shall inure to the benefit of the United States, the Liquidation Trust on behalf of itself and Old Carco, as Old Carco's successor in interest, and any trustee, examiner, or receiver appointed in the Bankruptcy Cases.

#### **V. LIQUIDATED SITE - SETTLEMENT**

4. In settlement and satisfaction of the Proof of Claim and contentions of the parties with respect to the Liquidated Site:

a. EPA shall receive a cash payment in the amount of \$500,000 from the EPA Reserve on the Agreement Effective Date;

b. In the event that the sale or transfer of an Owned Property results in an Excess Reserve Amount, EPA shall receive additional cash payment(s) from the EPA Reserve in the maximum aggregate additional amount of \$1,500,000 for the Liquidated Site (i.e., for a potential total of \$2,000,000 in cash payments from the EPA Reserve);

c. EPA shall have an Allowed General Unsecured Claim for response costs in the amount of \$26,000,000, classified in Class 3A under the Plan of Liquidation; and

d. EPA shall have an Allowed General Unsecured Claim for penalties in the amount of \$5,000,000, classified in Class 3A under the Plan of Liquidation.

5. The United States shall receive no distributions from the Liquidation Trust in the Bankruptcy Cases with respect to Old Carco's liabilities and obligations asserted in the Proof of Claim with respect to the Liquidated Site other than as set forth in this Settlement Agreement.

#### **VI. INSURANCE PROCEEDS**

6. If at any time after the Agreement Effective Date, the Liquidation Trust recovers insurance proceeds on account of the Liquidated Site in excess of the Liquidation Trust's costs of

pursuing such insurance proceeds, the Liquidation Trust may retain 20% of such excess insurance proceeds on account of the Liquidated Site, and the Liquidation Trust shall pay 80% of such excess insurance proceeds on account of the Liquidated Site to the United States. The Liquidation Trust agrees to allocate in writing any excess insurance proceeds on a fair and equitable basis among sites between the Liquidated Site and other sites based upon all of the facts and circumstances including, but not limited to, any defenses asserted by insurers, and with deference to any allocation by a court or in an approved settlement document. In determining the Liquidation Trust's cost of pursuing insurance proceeds for the Liquidated Site, the Liquidation Trust shall use the same percentage allocation of costs as is used in Old Carco's allocation of recovery of excess insurance proceeds attributed to the Liquidated Site. To the extent that excess insurance proceeds are allocable to sites other than the Liquidated Site, no payment need be made to the United States from the excess insurance proceeds allocable to sites other than the Liquidated Site pursuant to this Settlement Agreement and all parties reserve all rights and defenses with respect to such proceeds. The United States reserves the right to petition the Bankruptcy Court for an adjustment of the Liquidation Trust's allocation based upon all of the facts and circumstances. The payments required to be made under this Paragraph shall be in addition to the payments required to be made under Paragraph 4 of this Settlement Agreement. However, under no circumstances, may the payments required to be made under this Paragraph, when combined with the consideration received for the Liquidated Site by EPA under Paragraph 4.c of this Settlement Agreement, exceed the amount of the Allowed General Unsecured Claim for the Liquidated Site under Paragraph 4.c of this Settlement Agreement (any such amount, an "exceedance" for the purpose of this Paragraph). In the event that the insurance proceeds sharing requirements of this Paragraph would otherwise result in such an exceedance, the Liquidation Trust shall retain the additional amount of excess insurance proceeds necessary to avoid such an exceedance.

## **VII. TREATMENT OF ALLOWED GENERAL UNSECURED CLAIM**

7. The Allowed General Unsecured Claims under Paragraphs 4.c and 4.d shall be treated as follows:

a. The Allowed General Unsecured Claim under Paragraph 4.c of this Settlement Agreement (i) will receive the same treatment under the Plan of Liquidation, without discrimination, as other Allowed General Unsecured Claims with all attendant rights provided by the Bankruptcy Code and other applicable law, and (ii) will not be entitled to any priority in distribution (although the provisions of Section VI (Insurance Proceeds) shall apply in the event of excess insurance proceeds). In no event shall the Allowed General Unsecured Claim established pursuant to Paragraph 4.c of this Settlement Agreement be subordinated to any other Allowed General Unsecured Claims pursuant to any provision of the Bankruptcy Code or other applicable law that authorizes or provides for subordination of allowed Claims, including without limitation sections 105, 510, and 726(a)(4) of the Bankruptcy Code.

b. The Allowed General Unsecured Claim under Paragraph 4.d shall be subordinated under the Plan of Liquidation to other Allowed General Unsecured Claims.

8. Notwithstanding any other provision of this Settlement Agreement, and except as provided under applicable law, there shall be no restrictions on the ability and right of EPA to transfer or sell all or a portion of any securities distributed to them pursuant to the Plan of Liquidation, to sell their right to all or a portion of any distributions under the Plan to one or more third parties, or to transfer or sell to one or more third parties all or a portion of any Allowed General Unsecured Claims pursuant to this Settlement Agreement.

## **VIII. DISTRIBUTION INSTRUCTIONS**

### **9. Distributions to the United States**

a. Except for distributions relating to Paragraphs 4.d and 7.b, cash distributions made by the Liquidation Trust pursuant to Paragraphs 4, 6 and 7 shall be made at <https://www.pay.gov> to the U.S. Department of Justice account, unless a distribution exceeds \$9.9 million, in which case it may be made by FedWire Electronic Funds Transfer (“EFT”) to the United States Department of Justice account in accordance with current EFT procedures. In either event, payment shall be made in accordance with instructions provided to the Liquidation Trust by the Financial Litigation Unit of the United States Attorney’s Office for the Southern District of New York and shall reference Bankruptcy Case Number 09-50002 and DOJ File Number 90-11-3-09743. The payment instructions provided by the Financial Litigation Unit shall include a Consolidated Debt Collection System (“CDCS”) number, which shall be used to identify all cash distributions required to be made in accordance with this Settlement Agreement. The Liquidation Trust shall transmit written confirmation of such payments to the United States at the addresses specified in Paragraph 21. In the event that the United States sells or transfers its Allowed General Unsecured Claim, payment shall be made to a transferee only at such time as the Liquidation Trust and its counsel receive written instructions from the United States directing that payments be made to a transferee and instructions as to where such payments should be directed, and, prior to the closing of the Bankruptcy Cases, after an evidence of claim transfer has been filed with the Bankruptcy Court consistent with the terms of the Plan.

b. Non-cash distributions (if any) made by the Liquidation Trust pursuant to Paragraphs 4, 6 and 7 shall be made to:

U.S. EPA — Superfund  
P.O. Box 371003M  
Pittsburgh, PA 15251

The Liquidation Trust shall transmit written confirmation of such distributions to the United States at the addresses specified in Paragraph 21 below.

c. Cash distributions made by the Liquidation Trust pursuant to Paragraphs 4.d and 7.b shall be made by Fedwire EFT to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"

10. Special Account. Except for distributions relating to Paragraphs 4.d, 7.b and 9.c, the total cash distributions made by the Liquidation Trust pursuant to Paragraphs 4, 6 and 7 (and any net cash received by EPA upon sale of any non-cash distributions made by the Liquidation Trust pursuant to Paragraphs 4, 6 and 7) shall be deposited in a special account within the Superfund to be retained and used to conduct or finance response actions at or in connection with the Liquidated Site or transferred by EPA to the Superfund.

11. Credits. Except for the distributions relating to Paragraphs 4.d and 7.b, the total cash distributions made by the Liquidation Trust to EPA under Paragraphs 4, 6 and 7 (and any net cash received by EPA upon sale of any non-cash distributions made by the Liquidation Trust pursuant to Paragraphs 4, 6 and 7) shall be credited by EPA to its account for the Liquidated Site, which credit shall reduce the liability of non-settling potentially responsible parties for the particular site by the amount of the credit. This credit shall not include (a) the total amount of the Allowed Claim in Paragraphs 4.c or 4.d, (b) the total amount of the insurance proceeds recovered by the Liquidation Trust on the account of the Liquidated Site, (c) the total amount by which the insurance proceeds recovered by the Liquidation Trust on account of the Liquidated Site exceed Old Carco's

costs of pursuing such insurance proceeds, or (d) the total cash distributions made by the Liquidation Trust to EPA under Paragraphs 4.d and 7.b.

12. Treatment of Distributions. Except for distributions pursuant to Paragraphs 4.d and 7.b, none of the distributions made by the Liquidation Trustee under this Settlement Agreement constitute, nor shall they be construed as, forfeitures, fines, or penalties (or payments in lieu thereof), and nothing herein is intended, or shall be construed, as an admission by Old Carco or the Liquidation Trust of any facts or any violation of law. Notwithstanding the foregoing, the Liquidation Trust agrees to comply with all terms of this Settlement Agreement upon the Agreement Effective Date.

#### **IX. COVENANT NOT TO SUE AND RESERVATION OF RIGHTS**

13. In consideration of all of the foregoing, including, without limitation, the payments and/or distributions that will be made and the Allowed General Unsecured Claim authorized pursuant to the terms of this Settlement Agreement, and except as specifically provided in Paragraphs 16 through 18 of this Settlement Agreement, EPA covenants not to file a civil action or to take any administrative or other civil action against the Liquidation Trust acting on behalf of itself and Old Carco, as successor in interest to Old Carco, and pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, and Section 7003 of RCRA, 42 U.S.C. § 6973, with respect to the Liquidated Site. These covenants not to sue shall take effect on the Agreement Effective Date.

14. Without in any way limiting the covenant not to sue (and the reservations thereto) set forth in Paragraph 13, and notwithstanding any other provision of this Settlement Agreement, such covenant not to sue shall also apply to the Liquidation Trust's or Old Carco's successors, assigns, officers, directors, managers, employees, and trustees (including the Liquidation Trustee), but only to the extent that the alleged liability of the successor or assign, officer, director, manager, employee, or trustee of the Liquidation Trust or Old Carco is based solely on its status as and in its capacity as a

successor or assign, officer, director, manager, employee, or trustee of the Liquidation Trust or Old Carco.

15. The covenants not to sue contained in Paragraphs 13 and 14 of this Settlement Agreement extend only to the Liquidation Trust acting on behalf of itself and Old Carco, as successor in interest to Old Carco and the persons described in Paragraphs 13 and 14 of this Settlement Agreement and do not extend to any other person. Nothing in this Settlement Agreement is intended as a covenant not to sue or a release from liability for any person or entity other than Old Carco, the Liquidation Trust, the United States, and the persons described in Paragraph 14 of this Settlement Agreement. EPA and the Liquidation Trust expressly reserve all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which they may have against all other persons, firms, corporations, entities, or predecessors of the Liquidation Trust or Old Carco for any matter arising at or relating in any manner to the Liquidated Site or claims addressed herein. Nothing in this Settlement Agreement shall constitute a settlement with respect to any sites included in the Proof of Claim other than the Liquidated Site.

16. Notwithstanding the foregoing, the covenants not to sue contained in this Settlement Agreement shall not apply to nor affect any action based on (a) a failure to meet a requirement of this Settlement Agreement; (b) criminal liability; or (c) conduct of the Liquidation Trust at or with respect to the Liquidated Site occurring after the date of lodging of this Settlement Agreement that would give rise to liability under 42 U.S.C. §§ 9606, 9607(a)(1)-(4), or 6973.

17. Nothing in this Settlement Agreement shall be deemed to limit the authority of the United States to take response action under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States pursuant to such authority. Nothing in this Settlement Agreement shall be deemed to limit the information-gathering authority of the United States under



Sections 104 and 122 of CERCLA, 42 U.S.C. §§ 9604 and 9622, or any other applicable federal or state law or regulation, or to excuse the Liquidation Trust from any disclosure or notification requirements imposed by CERCLA, RCRA, or any other applicable federal or state law or regulation.

18. The Liquidation Trust (for itself and on behalf of Old Carco as Old Carco's successor in interest) hereby covenants not to sue and agrees not to assert or pursue any claims or causes of action against the United States with respect to the Liquidated Site, including, but not limited to: any direct or indirect claim for reimbursement from the Superfund through Sections 106(b)(2), 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, or 9613, or any other provision of law; any claim against the United States, including any department, agency, or instrumentality of the United States, under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, related to the Liquidated Site; or any claims arising out of response activities at the Liquidated Site. Nothing in this Settlement Agreement shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

#### **X. CONTRIBUTION PROTECTION**

19. The Parties agree, and by approving this Settlement Agreement the Bankruptcy Court finds, that this settlement constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that the Liquidation Trust (for itself and on behalf of Old Carco as Old Carco's successor in interest) is entitled, as of the Agreement Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as may be otherwise provided by law, for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement, as that phrase is used in Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), include, without limitation,

response costs incurred or to be incurred by EPA or potentially responsible parties with respect to the Liquidated Site.

20. The Liquidation Trust (for itself and on behalf of Old Carco as Old Carco's successor in interest) agrees that with respect to any suit for contribution brought against it after the Agreement Effective Date for matters related to this Settlement Agreement, it will notify the United States within 15 business days of service of the complaint upon them. In addition, in connection with such suit, the Liquidation Trust shall notify the United States within 15 business days of service or receipt of any Motion for Summary Judgment and within 15 business days of receipt of any order from a court setting a case for trial (provided, however, that the failure to notify the United States pursuant to this Paragraph shall not in any way affect the protections afforded under Section IX (Covenants Not to Sue and Reservation of Rights)).

#### **XI. NOTICES AND SUBMISSIONS**

21. Whenever, under the terms of this Settlement Agreement, written notice is required to be given, or a report or other document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below via U.S. certified mail, return receipt requested, unless those individuals or their successors give notice of a change of address to the other parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Except as otherwise provided in this Settlement Agreement, written notice as specified herein shall constitute complete satisfaction of any written notice requirement in the Settlement Agreement with respect to the United States and the Liquidation Trust, respectively.

As to the United States:

Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044

Ref. DOJ File No. 90-11-3-09743

Jeannette A. Vargas  
Assistant United States Attorney  
Office of the United States Attorney  
for the Southern District of New York  
86 Chambers Street, Third Floor  
New York, New York 10007

As to the Liquidation Trust:

RJMI, LLC  
Robert J. Manzo, Sole Manager  
c/o Capstone Advisory Group, LLC  
Park 80 West  
250 Pehle Avenue, Suite 105  
Saddle Brook, New Jersey 07663  
Telephone: (201) 587-7190  
Facsimile: (201) 587-7102  
Email: rmanzo@capstoneag.com

With a copy to:

Kevin P. Holewinski, Esq.  
JONES DAY  
51 Louisiana Ave., N.W.  
Washington, D.C. 20001  
Telephone: (202) 879-3797  
Facsimile: (202) 626-1700  
Email: kpholewinski@jonesday.com

Jeffrey B. Ellman, Esq.  
JONES DAY  
1420 Peachtree Street, N.E.  
Suite 800  
Atlanta, Georgia 30309 3053  
Telephone: (404) 581-3939  
Facsimile: (404) 581-8330  
Email: jbellman@jonesday.com

**XII. JUDICIAL APPROVAL AND OPPORTUNITY FOR PUBLIC COMMENT**

22. This Settlement Agreement shall be subject to approval of the Bankruptcy Court. The Liquidation Trust shall lodge this Settlement Agreement with the Bankruptcy Court and, upon

the provisions of Paragraphs 23 and 24 having been satisfied, shall promptly seek approval of this Settlement Agreement pursuant to applicable provisions of law and the Plan of Liquidation.

23. This Settlement Agreement shall be lodged with the Bankruptcy Court and shall thereafter be subject to public comment for a period of 30 days following publication of notice of the Settlement Agreement in the *Federal Register*. After the conclusion of the public comment period, the United States will file with the Bankruptcy Court any comments received, as well as the United States' responses to the comments, and at that time, if appropriate, the United States will request approval of the Settlement Agreement. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Settlement Agreement disclose facts or considerations that indicate that the Settlement Agreement is not in the public interest.

24. If for any reason (a) the Settlement Agreement is withdrawn by the United States as provided in Paragraph 23 or (b) the Settlement Agreement is not approved: (i) this Settlement Agreement shall be null and void and the parties shall not be bound hereunder or under any documents executed in connection herewith; (ii) the parties shall have no liability to one another arising out of or in connection with this Settlement Agreement or under any documents executed in connection herewith; and (iii) this Settlement Agreement and any documents prepared in connection herewith shall have no residual or probative effect or value, and it shall be as if they had never been executed.

25. The Liquidation Trust shall not seek to amend the Plan of Liquidation or take any other action in the Bankruptcy Cases that is inconsistent with the terms and provisions of this Settlement Agreement.

### **XIII. AMENDMENTS/INTEGRATION AND COUNTERPARTS**

26. This Settlement Agreement and any other documents to be executed in connection herewith and referred to herein shall constitute the sole and complete agreement of the parties hereto with respect to the matters addressed herein. This Settlement Agreement may not be amended except by a writing signed by all parties to this Settlement Agreement.

27. This Settlement Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

### **XIV. RETENTION OF JURISDICTION**

28. The Bankruptcy Court (or, upon withdrawal of the reference, the United States District Court for the Southern District of New York) shall retain jurisdiction over the subject matter of this Settlement Agreement and the parties hereto for the duration of the performance of the terms and provisions of this Settlement Agreement for the purpose of enabling any of the parties to apply to the Bankruptcy Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or interpretation of this Settlement Agreement or to effectuate or enforce compliance with its terms.

[REMAINDER OF THE PAGE LEFT BLANK]

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT:  
FOR THE UNITED STATES OF AMERICA:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jeannette A. Vargas  
Assistant United States Attorney  
Office of the United States Attorney  
for the Southern District of New York  
86 Chambers Street, Third Floor  
New York, New York 10007

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: \_\_\_\_\_

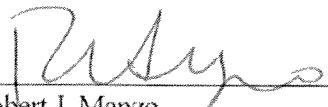
By: \_\_\_\_\_  
Assistant Administrator for Enforcement and  
Compliance Assurance  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Robert Roberts  
Attorney-Advisor  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

FOR THE LIQUIDATION TRUST:

Date: \_\_\_\_\_

By:  \_\_\_\_\_  
Robert J. Manzo  
Sole Manager of RJM I, LLC,  
in its capacity as trustee for the  
Old Carco Liquidation Trust

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT:  
FOR THE UNITED STATES OF AMERICA:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Jeannette A. Vargas  
Assistant United States Attorney  
Office of the United States Attorney  
for the Southern District of New York  
86 Chambers Street, Third Floor  
New York, New York 10007

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: 6/8/10

By: 

Cynthia Giles  
Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Date: 6/8/10

By: 

Robert Roberts  
Attorney-Advisor  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

FOR THE LIQUIDATION TRUST:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Robert J. Manzo  
Sole Manager of RJMI, LLC,  
in its capacity as trustee for the  
Old Carco Liquidation Trust

THE UNDERSIGNED PARTIES ENTER INTO THIS SETTLEMENT AGREEMENT:  
FOR THE UNITED STATES OF AMERICA:

Date: 6/10/10

By: Jeannette Vargas  
Jeannette A. Vargas  
Assistant United States Attorney  
Office of the United States Attorney  
for the Southern District of New York  
86 Chambers Street, Third Floor  
New York, New York 10007

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Assistant Administrator for Enforcement and  
Compliance Assurance  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Robert Roberts  
Attorney-Advisor  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

FOR THE LIQUIDATION TRUST:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Robert J. Manzo  
Sole Manager of RJM I, LLC,  
in its capacity as trustee for the  
Old Carco Liquidation Trust



**EXHIBIT B**

**[Proposed Order]**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
In re	:	Chapter 11
	:	
Old Carco LLC	:	Case No. 09-50002 (AJG)
(f/k/a Chrysler LLC), <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----X	:	

**ORDER APPROVING SETTLEMENT AGREEMENT BETWEEN  
OLD CARCO LIQUIDATION TRUST AND THE UNITED STATES, ON  
BEHALF OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

This matter coming before the Court on the Motion of Old Carco Liquidation Trust for an Order Approving Settlement Agreement Between Old Carco Liquidation Trust and the United States, on Behalf of the United States Environmental Protection Agency (the "Motion"),<sup>1</sup> filed by Old Carco Liquidation Trust (the "Liquidation Trust"); the Court having reviewed the Motion and the Settlement Agreement and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court finding that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and Article VIII of the Plan, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iii) the Settlement Agreement constitutes a judicially-approved settlement for purposes of 42 U.S.C. § 9613(f)(2) and (iv) notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Settlement Agreement is approved in its entirety pursuant to section 105 of the Bankruptcy Code and Sections IV.O.4 and VIII.A.22 of the Plan. The Liquidation Trust is authorized to enter into, and perform its obligations under, the Settlement Agreement.
3. The Liquidation Trust is authorized to take any and all actions necessary or appropriate to implement the terms of this Order and the Settlement Agreement.
4. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: \_\_\_\_\_, 2010  
New York, New York

\_\_\_\_\_  
CHIEF UNITED STATES BANKRUPTCY JUDGE